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Attorneys for Plaintiff Federal Trade Commission

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

MICROSOFT CORP.

and

ACTIVISION BLIZZARD, INC.,

Defendants.

Case No. 3:23-cv-2880-JSC

**PLAINTIFF FEDERAL TRADE
COMMISSION'S ADMINISTRATIVE
MOTION TO CONSIDER WHETHER
ANOTHER PARTY'S MATERIAL
SHOULD BE SEALED**

Dept.: Courtroom 8
Judge: Honorable Jacqueline Scott Corley

PLAINTIFF FEDERAL TRADE COMMISSION'S ADMINISTRATIVE MOTION TO CONSIDER WHETHER
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CASE NO. 3:23-CV-2880-JSC

1 Pursuant to Civil Local Rules 7-11 and 79-5(f), Plaintiff, the Federal Trade Commission,
2 respectfully submits this Administrative Motion to Consider Whether Another Party's Material
3 Should be Sealed in connection with the parties' Joint Statement Regarding Evidence for Pre-
4 Hearing Conference.

5 Certain portions of Plaintiff's Exhibit List ("FTC Exhibit List"), attached as Exhibit A to
6 the parties' Joint Statement Regarding Evidence for Pre-Hearing Conference, contain
7 information obtained from Microsoft Corporation ("Microsoft"), Activision Blizzard, Inc.
8 ("Activision"), Amazon.com, Inc. ("Amazon"), Google LLC ("Google"), Nintendo of America,
9 Inc. ("Nintendo"), NVIDIA Corporation ("Nvidia"), and Sony Interactive Entertainment
10 ("Sony") (collectively, "Producing Parties") during the course of the FTC's investigation
11 regarding Microsoft's proposed acquisition of Activision. Microsoft, Activision, Amazon,
12 Google, Nintendo, Nvidia, and Sony designated certain of this information as confidential
13 pursuant to Section 21 of the FTC Act, 15 U.S.C. § 57b-2. Other portions of the Complaint
14 contain information that was obtained during the course of litigation discovery in *In the matter*
15 *of Microsoft Corp. and Activision, Blizzard, Inc.*, before the United States of America Federal
16 Trade Commission Office of Administrative Law Judges, Docket No. 9412, and that the
17 producing party designated as Confidential pursuant to the Protective Order Governing
18 Confidential Material entered on December 9, 2022 ("Administrative Protective Order").
19 Pursuant to the Court's Order Regarding Evidentiary Hearing on Preliminary Injunction Motion
20 (Dkt. No. 76) and Local Rule 79-5, the Producing Parties have opportunities to submit
21 declarations in support of sealing certain exhibits. Given the brevity of time, no Producing Party
22 has yet filed a declaration of sealing on the docket in this matter. However, Plaintiff expects
23 declarations of sealing to be forthcoming imminently from a number of Producing Parties.
24 Accordingly, Plaintiff seeks to file under seal the following exhibits, and the corresponding
25 descriptions of those exhibits within FTC Exhibit List, and will update this motion following
26 the Pre-Hearing Status Conference in accordance with the Court's direction:

27
28 PLAINTIFF FEDERAL TRADE COMMISSION'S ADMINISTRATIVE MOTION TO CONSIDER WHETHER
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CASE NO. 3:23-CV-2880-JSC

PX#	Description	Confidentiality Designation
PX0014	Document Description	L.R. 79-5(f) declaration forthcoming
PX1015	Document Description	L.R. 79-5(f) declaration forthcoming
PX1019	Document Description	L.R. 79-5(f) declaration forthcoming
PX1182	Document Description	L.R. 79-5(f) declaration forthcoming
PX1188	Document Description	L.R. 79-5(f) declaration forthcoming
PX1217	Document Description	L.R. 79-5(f) declaration forthcoming
PX1312	Document Description	L.R. 79-5(f) declaration forthcoming
PX1477	Document Description	L.R. 79-5(f) declaration forthcoming
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PX2199	Document Description	L.R. 79-5(f) declaration forthcoming
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PX4505	Document Description	L.R. 79-5(f) declaration forthcoming
PX4624	Document Description	L.R. 79-5(f) declaration forthcoming
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PX4652	Document Description	L.R. 79-5(f) declaration forthcoming
PX4670	Document Description	L.R. 79-5(f) declaration forthcoming
PX4676	Document Description	L.R. 79-5(f) declaration forthcoming

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PX1063	Document Description	L.R. 79-5(f) declaration forthcoming

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PX1393	Document Description	L.R. 79-5(f) declaration forthcoming
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PX1954	Document Description	L.R. 79-5(f) declaration forthcoming
PX1962	Document Description	L.R. 79-5(f) declaration forthcoming

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PX1995	Document Description	L.R. 79-5(f) declaration forthcoming
PX2002	Document Description	L.R. 79-5(f) declaration forthcoming
PX2003	Document Description	L.R. 79-5(f) declaration forthcoming
PX2006	Document Description	L.R. 79-5(f) declaration forthcoming
PX2008	Document Description	L.R. 79-5(f) declaration forthcoming
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PX2415	Document Description	L.R. 79-5(f) declaration forthcoming
PX2419	Document Description	L.R. 79-5(f) declaration forthcoming
PX2421	Document Description	L.R. 79-5(f) declaration forthcoming
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PX3053	Document Description	L.R. 79-5(f) declaration forthcoming
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PX#	Description	Confidentiality Designation
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PX4322	Document Description	L.R. 79-5(f) declaration forthcoming
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PX4361	Document Description	L.R. 79-5(f) declaration forthcoming
PX4362	Document Description	L.R. 79-5(f) declaration forthcoming
PX4365	Document Description	L.R. 79-5(f) declaration forthcoming
PX4366	Document Description	L.R. 79-5(f) declaration forthcoming
PX4367	Document Description	L.R. 79-5(f) declaration forthcoming
PX4372	Document Description	L.R. 79-5(f) declaration forthcoming
PX4375	Document Description	L.R. 79-5(f) declaration forthcoming
PX4376	Document Description	L.R. 79-5(f) declaration forthcoming
PX4377	Document Description	L.R. 79-5(f) declaration forthcoming
PX4378	Document Description	L.R. 79-5(f) declaration forthcoming
PX4380	Document Description	L.R. 79-5(f) declaration forthcoming
PX4391	Document Description	L.R. 79-5(f) declaration forthcoming
PX4394	Document Description	L.R. 79-5(f) declaration forthcoming
PX4406	Document Description	L.R. 79-5(f) declaration forthcoming
PX4407	Document Description	L.R. 79-5(f) declaration forthcoming
PX4408	Document Description	L.R. 79-5(f) declaration forthcoming
PX4419	Document Description	L.R. 79-5(f) declaration forthcoming
PX4430	Document Description	L.R. 79-5(f) declaration forthcoming
PX4435	Document Description	L.R. 79-5(f) declaration forthcoming
PX4437	Document Description	L.R. 79-5(f) declaration forthcoming
PX4476	Document Description	L.R. 79-5(f) declaration forthcoming
PX4484	Document Description	L.R. 79-5(f) declaration forthcoming
PX4535	Document Description	L.R. 79-5(f) declaration forthcoming
PX4578	Document Description	L.R. 79-5(f) declaration forthcoming
PX4588	Document Description	L.R. 79-5(f) declaration forthcoming
PX4599	Document Description	L.R. 79-5(f) declaration forthcoming
PX4602	Document Description	L.R. 79-5(f) declaration forthcoming
PX4617	Document Description	L.R. 79-5(f) declaration forthcoming
PX4622	Document Description	L.R. 79-5(f) declaration forthcoming
PX4627	Document Description	L.R. 79-5(f) declaration forthcoming
PX4629	Document Description	L.R. 79-5(f) declaration forthcoming
PX4631	Document Description	L.R. 79-5(f) declaration forthcoming
PX4640	Document Description	L.R. 79-5(f) declaration forthcoming

PLAINTIFF FEDERAL TRADE COMMISSION'S ADMINISTRATIVE MOTION TO CONSIDER WHETHER
 ANOTHER PARTY'S MATERIAL SHOULD BE SEALED
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PX#	Description	Confidentiality Designation
PX4647	Document Description	L.R. 79-5(f) declaration forthcoming
PX4671	Document Description	L.R. 79-5(f) declaration forthcoming
PX4672	Document Description	L.R. 79-5(f) declaration forthcoming
PX4673	Document Description	L.R. 79-5(f) declaration forthcoming
PX4684	Document Description	L.R. 79-5(f) declaration forthcoming
PX4792	Document Description	L.R. 79-5(f) declaration forthcoming
PX4793	Document Description	L.R. 79-5(f) declaration forthcoming
PX4818	Document Description	L.R. 79-5(f) declaration forthcoming
PX4819	Document Description	L.R. 79-5(f) declaration forthcoming
PX4892	Document Description	L.R. 79-5(f) declaration forthcoming
PX4893	Document Description	L.R. 79-5(f) declaration forthcoming
PX4894	Document Description	L.R. 79-5(f) declaration forthcoming
PX4895	Document Description	L.R. 79-5(f) declaration forthcoming
PX4896	Document Description	L.R. 79-5(f) declaration forthcoming
PX4897	Document Description	L.R. 79-5(f) declaration forthcoming
PX7000	Document Description	L.R. 79-5(f) declaration forthcoming
PX7001	Document Description	L.R. 79-5(f) declaration forthcoming
PX7002	Document Description	L.R. 79-5(f) declaration forthcoming
PX7003	Document Description	L.R. 79-5(f) declaration forthcoming
PX7004	Document Description	L.R. 79-5(f) declaration forthcoming
PX7005	Document Description	L.R. 79-5(f) declaration forthcoming
PX7006	Document Description	L.R. 79-5(f) declaration forthcoming
PX7007	Document Description	L.R. 79-5(f) declaration forthcoming
PX7008	Document Description	L.R. 79-5(f) declaration forthcoming
PX7009	Document Description	L.R. 79-5(f) declaration forthcoming
PX7010	Document Description	L.R. 79-5(f) declaration forthcoming
PX7011	Document Description	L.R. 79-5(f) declaration forthcoming
PX7012	Document Description	L.R. 79-5(f) declaration forthcoming
PX7014	Document Description	L.R. 79-5(f) declaration forthcoming
PX7025	Document Description	L.R. 79-5(f) declaration forthcoming
PX7026	Document Description	L.R. 79-5(f) declaration forthcoming
PX7027	Document Description	L.R. 79-5(f) declaration forthcoming
PX7028	Document Description	L.R. 79-5(f) declaration forthcoming
PX7029	Document Description	L.R. 79-5(f) declaration forthcoming
PX7030	Document Description	L.R. 79-5(f) declaration forthcoming
PX7031	Document Description	L.R. 79-5(f) declaration forthcoming

PLAINTIFF FEDERAL TRADE COMMISSION'S ADMINISTRATIVE MOTION TO CONSIDER WHETHER
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 CASE NO. 3:23-CV-2880-JSC

PX#	Description	Confidentiality Designation
PX7032	Document Description	L.R. 79-5(f) declaration forthcoming
PX7033	Document Description	L.R. 79-5(f) declaration forthcoming
PX7034	Document Description	L.R. 79-5(f) declaration forthcoming
PX7035	Document Description	L.R. 79-5(f) declaration forthcoming
PX7036	Document Description	L.R. 79-5(f) declaration forthcoming
PX7037	Document Description	L.R. 79-5(f) declaration forthcoming
PX7038	Document Description	L.R. 79-5(f) declaration forthcoming
PX7039	Document Description	L.R. 79-5(f) declaration forthcoming
PX7040	Document Description	L.R. 79-5(f) declaration forthcoming
PX7041	Document Description	L.R. 79-5(f) declaration forthcoming
PX7042	Document Description	L.R. 79-5(f) declaration forthcoming
PX7043	Document Description	L.R. 79-5(f) declaration forthcoming
PX7044	Document Description	L.R. 79-5(f) declaration forthcoming
PX7046	Document Description	L.R. 79-5(f) declaration forthcoming
PX7047	Document Description	L.R. 79-5(f) declaration forthcoming
PX7048	Document Description	L.R. 79-5(f) declaration forthcoming
PX7049	Document Description	L.R. 79-5(f) declaration forthcoming
PX7050	Document Description	L.R. 79-5(f) declaration forthcoming
PX7051	Document Description	L.R. 79-5(f) declaration forthcoming
PX7052	Document Description	L.R. 79-5(f) declaration forthcoming
PX7053	Document Description	L.R. 79-5(f) declaration forthcoming
PX7054	Document Description	L.R. 79-5(f) declaration forthcoming
PX7055	Document Description	L.R. 79-5(f) declaration forthcoming
PX7056	Document Description	L.R. 79-5(f) declaration forthcoming
PX7057	Document Description	L.R. 79-5(f) declaration forthcoming
PX7058	Document Description	L.R. 79-5(f) declaration forthcoming
PX7059	Document Description	L.R. 79-5(f) declaration forthcoming
PX7060	Document Description	held for potential L.R. 79-5(f) declaration
PX7061	Document Description	L.R. 79-5(f) declaration forthcoming
PX7062	Document Description	held for potential L.R. 79-5(f) declaration
PX7063	Document Description	L.R. 79-5(f) declaration forthcoming
PX7064	Document Description	L.R. 79-5(f) declaration forthcoming
PX7065	Document Description	L.R. 79-5(f) declaration forthcoming
PX8000	Document Description	held for potential L.R. 79-5(f) declaration
PX8001	Document Description	L.R. 79-5(f) declaration forthcoming
PX8002	Document Description	L.R. 79-5(f) declaration forthcoming

PLAINTIFF FEDERAL TRADE COMMISSION'S ADMINISTRATIVE MOTION TO CONSIDER WHETHER
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PX#	Description	Confidentiality Designation
PX8003	Document Description	L.R. 79-5(f) declaration forthcoming

Materials and documents may be provisionally filed under seal pursuant to Civil Local Rule 79-5(f) when the document, or portions thereof, “has been designated as confidential by another party or non-party.” L.R. 79-5(f). Plaintiff has redacted the above-referenced yellow-highlighted portions of the FTC Exhibit List because Defendants have informed Plaintiffs that they will be filing a motion pursuant to L.R. 79-5(f) to designate some portion of the information contained therein as confidential.

Plaintiff has redacted the above-referenced olive-highlighted portions of the FTC Exhibit List because Amazon has informed Plaintiff that it will be filing a motion pursuant to L.R. 79-5(f) to designate information contained therein as confidential. Plaintiff has redacted the above-referenced grey-highlighted portions of the FTC Exhibit List because Google has informed Plaintiff that it will be filing a motion pursuant to L.R. 79-5(f) to designate information contained therein as confidential. Plaintiff has redacted the above-referenced pink-highlighted portions of the FTC Exhibit List because Nintendo informed Plaintiff that it will be filing a motion pursuant to L.R. 79-5(f) to designate information contained therein as confidential. Plaintiff has redacted the above-referenced blue-highlighted portions of the FTC Exhibit List because Sony has informed Plaintiff that it will be filing a motion pursuant to L.R. 79-5(f) to designate information contained therein as confidential pursuant to L.R. 79-5(f).

Plaintiff has not yet received the positions of either Nvidia or Valve with respect to confidentiality. Plaintiff has redacted the above-referenced green-highlighted portions of the FTC Exhibit List to provide Nvidia an opportunity to designate information contained therein as confidential pursuant to L.R. 79-5(f). Plaintiff has redacted the above-referenced orange-highlighted portions of the FTC Exhibit List to provide Valve an opportunity to designate information contained therein as confidential pursuant to L.R. 79-5(f).

1 Plaintiff takes no position on the merits of sealing Microsoft's, Activision's, and non-
2 parties' designated material.

3 In compliance with Civil Local Rule 79-5(d), the unredacted version of the FTC Exhibit
4 List accompanies this Administrative Motion. In accordance with Local Rule 7-11, Plaintiff has
5 also filed a Proposed Order herewith.

6
7 Dated: June 20, 2023

Respectfully submitted,

8 FEDERAL TRADE COMMISSION

9 /s/ Jennifer Fleury

10 Jennifer Fleury
11 Peggy Bayer Femenella
12 James Abell
13 Cem Akleman
14 J. Alexander Ansaldo
15 Michael T. Blevins
16 Amanda L. Butler
17 Nicole Callan
18 Maria Cirincione
19 Kassandra DiPietro
20 Jennifer Fleury
21 Michael A. Franchak
22 James Gossman
23 Ethan Gurwitz
24 Meredith R. Levert
25 David E. Morris
26 Merrick Pastore
27 Stephen Santulli
28 Edmund Saw
James H. Weingarten

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Commission*

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CASE NO. 3:23-CV-2880-JSC

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PLAINTIFF FEDERAL TRADE COMMISSION’S ADMINISTRATIVE MOTION TO CONSIDER WHETHER
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